

## NORMS OF DEMOCRACY AND HUMAN RIGHTS WITHIN ASEAN NON-INTERVENTION PRINCIPLE ANALYSIS OF FORUM-ASIA'S PARTICIPATION IN FACILITATING DIALOGUES FOR HUMANITARIAN CONFLICT RESOLUTION IN MYANMAR IN 2021

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### ABSTRACT

*The paper elaborates on the challenges civil society coalitions face in advocating for democratic norms and human rights in humanitarian conflicts in Myanmar. The study aims to find out challenges the coalition, FORUM-ASIA, encountered in dealing with the non-intervention principle of ASEAN countries. The analysis in this article utilizes the concept of transnational civil society (TCS) with a qualitative method involving document studies and media reports. While the dominant power and authority of the state undermine the influence of transnational actors in advocating for the interests of marginalized groups, the article argues that transnational networks and institutions must establish cultural and ideational foundations that encompass political and social interests to drive this transformative process successfully. Another significant aspect highlighted is how these actors function as media systems, both in traditional and contemporary forms, influencing public opinion and catalyzing social change.*

### KEYWORDS

*Transnational Civil Society; Democratic Norms; ASEAN; Humanitarian Conflict*



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### INTRODUCTION

Peace resolutions regarding the humanitarian conflict in Myanmar since the military forcefully took over the government on February 1, 2021, have been a deadlock. The military junta's violence against citizens opposing authoritarian rule

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continues unabated. Nearly 2,000 civilian lives have been lost at the hands of security forces, with over 11,000 others imprisoned (AAPP, June 2022). Additionally, the junta has sealed at least 617 houses and public facilities over the past year, depriving citizens of their basic rights to live in peace and security. This conflict, which signifies a setback for democracy in Myanmar, has also posed a new security threat to neighboring countries due to cross-border refugee waves (Ambarkhane & Gathia, 2022).

The coup in Myanmar has also prompted sharp criticism of the relevance and centrality of the Association of Southeast Asian Nations (ASEAN) as a peace stabilizer in the region. Myanmar, formerly known as Burma, joined the regional bloc in 1997. Various efforts have been made by ASEAN member states, including Indonesia, to accompany Myanmar's democratization process, which has long been under the leadership of a dictator. In 2004, the international community also urged Myanmar to expedite the implementation of the seven-step "roadmap to democracy" (Taylor, 2004) announced by General Khin Nyunt after the establishment of the State Peace and Development Council (SPDC). Similar pressure was also conveyed by ASEAN, but Myanmar requested that the regional bloc refrains from interfering in any processes related to its internal affairs (Caballero-Anthony et al., 2014).

Since its establishment in 1967, ASEAN has adhered to the principles of mutually beneficial cooperation among member states (Bangkok Declaration, 1967), as well as the peaceful settlement of differences and disputes without interference in each other's internal affairs (non-intervention). The principle of non-intervention underlies the stance of ASEAN member states in responding to the military coup in Myanmar last year. In April 2021, three months after the Myanmar military decided to cut off their country from the outside world, ASEAN announced the Five-Point Consensus as its position and an effort to facilitate dialogue for conflict resolution. The Five-Point Consensus includes calls for an end to violence, constructive dialogue with all conflicting parties, the appointment of an ASEAN Special Envoy for Myanmar as a dialogue facilitator, the opening of humanitarian aid access through the ASEAN Coordinating Center for Humanitarian Assistance (AHA Center), and granting access for regional delegations to meet with all parties (ASEAN, 2021). Over a year since the announcement of the Five-Point Consensus, there has been little progress in the humanitarian situation in Myanmar. Human Rights Watch (HRW) even declared the Five-Point Consensus a failure.

However, the regional bloc's efforts to facilitate conflict resolution in Myanmar are not solely hindered by the principle of non-intervention. The diversity of governance styles within ASEAN also contributes to differences in member states' attitudes toward the ongoing conflict. ASEAN comprises not only countries that adhere to democratic systems but also authoritarian and socialist governments (Ryu & Ortuoste, 2014). Meanwhile, the international community continues to pressure ASEAN to take firm action against the military junta's violence against civilians. Western countries such as the United States, the United Kingdom, and the European Union (EU) have imposed various economic sanctions on the military regime and its affiliates (BBC, 2021). Their goal is to urge Myanmar to swiftly return to democracy, respecting the results of the general elections in November

2020, which saw the de facto leader of the National League for Democracy (NLD) party, Aung San Suu Kyi, emerge victorious.

Within the limitations of space, civil society groups and non-governmental organizations inside and outside the region have been advocating by urging ASEAN to prioritize the principles of respect for humanity and democracy, which are also enshrined in the ASEAN Charter. Moreover, ASEAN stands to build a region that is people-centered, people-oriented, and resilient. The Asian Forum for Human Rights and Development (FORUM-ASIA), a network of 85 civil society organizations focusing on human rights issues in 23 countries, urges ASEAN to use its position to influence the situation in Myanmar by taking concrete actions to ensure that the military respects the rights of the people, freedom of expression, and the enforcement of democracy. Failure to take a firm stance risks further damaging ASEAN's reputation as an effective regional body that can make meaningful contributions to the community of nations in the region (FORUM-ASIA, 2021).

Throughout 2021, FORUM-ASIA carried out its advocacy for Myanmar by holding several meetings with the ASEAN Secretariat, the United Nations (UN), and ASEAN member state representatives. FORUM-ASIA also communicated with representatives of civil society organizations in Myanmar and the National Unity Government (NUG), a shadow government formed by political figures, academics, and civil society representatives in post-military coup Myanmar, to monitor the security and safety situation of the people there. One of the objectives of these efforts was to ensure that this network of organizations had access to deliver humanitarian assistance and to consolidate with civilian representatives (ASEAN Youth Forum, 2021). However, the advocacy efforts of this largest non-governmental organization network in Asia did not receive significant responses. The advocacy conducted also did not have a significant impact on the implementation of the ASEAN Five-Point Consensus for Myanmar. In a recent statement released in April 2022, FORUM-ASIA stated that the slow progress in resolving the humanitarian conflict in Myanmar was due to the regional bloc being trapped in elitist consensus mechanisms with strong political interests (FORUM-ASIA, 2022).

This paper is prepared to analyze how the norms of democracy and human rights in ASEAN member states pose challenges to the advocacy of civil society organizations in the humanitarian crisis in Myanmar. The analysis uses the concept of transnational civil society (TCS) with a qualitative method through document studies and media reports. The paper also presents a conceptual framework that includes an explanation of the liberal democratic system in Southeast Asia as well as the advocacy of non-governmental organization networks from an international relations perspective.

### ***Democracy and Human Rights in Transnationalism***

Human rights and democracy are often seen as intertwined concepts because they are both based on principles of accountability, individual freedom, integrity, inclusivity and participation, and non-violent conflict resolution (Landman, 2018). However, they have limitations and challenges, particularly regarding how transnational actors can promote these norms in the global order. Bexell, Tallberg, and Uhlin (2010) state that the democratic model was initially developed for the

national context and later transferred and adapted to the international level. This allows for the integration of transnational actors whose involvement becomes one of the measures of democratic decision-making. The three authors mention non-governmental organizations, advocacy networks, philanthropic foundations, and transnational corporations as actors who can be part of this process. However, various empirical studies show that civil society groups play a more promising role in global democratization efforts.

Likewise, the attainment of human rights as a universally accepted norm encounters obstacles as certain nations reject external intervention. Pease and Forsythe (1993) argue that originally, international law regarded the relationship between states and their citizens as a domestic matter, emphasizing state sovereignty. Individuals were subject to state policies. However, during the 1970s, international law recognized individuals as subjects of international law with extensive substantive rights. Nonetheless, some countries persisted in their refusal to intervene in domestic political affairs, such as China, Saudi Arabia, and Myanmar. The emergence of various diplomatic practices, treaty laws, and customary international laws further legitimized the integration of human rights into international relations and law, extending beyond the exclusive jurisdiction of states. The growing involvement of the international community in human rights underscores the significant impact of this issue on global politics.

Bexell, Tallberg, and Uhlin state that with numerous definitions of democracy, normative democratic theories become less suitable as analytical tools for understanding the role of transnational actors. The three authors then outline the trichotomy of democracy: representative, participatory, and deliberative models to emphasize the importance of participation and accountability as central democratic values.

Among several values, such as equality, freedom, participation, and accountability, the authors choose the latter as the most important. There are two reasons for this choice. First, participation and accountability frequently emerge as concerns in many democratic theories. Second, external mechanisms involve grassroots stakeholders. They argue that external mechanisms are ideal for engaging transnational actors in democratization efforts.

Pease and Forsythe (1993) state that self-help states have often carried out humanitarian interventions using violent action to protect the lives of non-national individuals. However, such efforts have faced criticism due to the ambiguity of motives behind them: whether they are related to politics to support a particular faction or purely humanitarian. In addition, humanitarian interventions with force often target changing the governance structure in the intervened country rather than addressing the human rights and well-being of affected individuals. Therefore, unilateral actions by states to intervene with humanitarian intentions are often rejected by several multilateral organizations, including the UN.

### ***Values and Models of Democracy in ASEAN***

Democratization has never taken center stage in the governance of the Southeast Asian region (Rüland, 2021). The original ASEAN founding members, Indonesia, Malaysia, Singapore, the Philippines, and Thailand, did not prioritize democracy and human rights when establishing the regional bloc. ASEAN was

primarily formed for security purposes with an economic focus. Even significant events that led to the downfall of authoritarian regimes in the region, such as the Epifanio de los Santos Avenue (EDSA) or the People Power Revolution in the Philippines in 1986 and Indonesia's Reformasi in 1998, did not immediately usher in a substantial political transformation in Southeast Asia. Authoritarianism continues to dominate several ASEAN countries' governmental systems, including Cambodia, Thailand, and Myanmar (Raymond, 2022).

Nevertheless, ASEAN acknowledges the significance of democracy and respect for human rights, as evident in its vision for the ASEAN Community 2015. This vision encompasses three pillars: economic, political security, and socio-cultural, intending to achieve full integration by 2025. ASEAN's regionalism is built upon shared cultural identity, geographical proximity, and mutually beneficial economic interdependence among its members (Thomas, 2009).

In pursuit of the 2025 integration target, ASEAN leaders are committed to strengthening the regional bloc by establishing a rule-based, people-oriented, and people-centered community. Their objective is to ensure that all segments of society enjoy human rights, fundamental freedoms, and improved quality of life in line with the principles and goals of the ASEAN Charter. In engaging with external partners, ASEAN aims to maintain its outward-looking approach while upholding the centrality of the regional bloc.

In contrast to the European Union's rule-based and highly institutionalized approach, ASEAN builds its regionalism by drawing upon the cultural values of the region, which diverge from Western styles (Acharya, 2004). ASEAN follows the 'ASEAN Way,' prioritizing non-intervention, non-confrontation, and consensus-based decision-making as principles for managing conflicts. However, the behavioral guidelines for maintaining peace, prosperity, and stability among Southeast Asian countries remain loosely defined when addressing increasingly complex regional issues. This complexity arises due to ASEAN's regionalism being influenced by the preferences of the elite in various decision-making processes. Rüländ (2021) describes ASEAN's regionalism as more aligned with the "protection of norms and values" rather than strict multilateralism.

ASEAN contributes to developing international institutions as a hedging utility but adopts a flexible and cost-effective approach to multilateralism. In this capacity, ASEAN diverges from other principles of multilateralism that construct and institutionalize international relations. Therefore, unlike Europe, ASEAN's regionalism has evolved into more than a means to an end.

According to Björkdahl (2002), proving the existence of norms is challenging, similar to other political behaviors. The influence of norms can be understood by analyzing behavior patterns shaped by these rules or through discourse and rhetoric. Norms are collective, shared, and intersubjective. Frequently, norms provide justifications for actions and leave behind traces of communication that can be studied. When a country discusses a norm, it reflects its actions. However, norms continually evolve, leading to diverse definitions from various perspectives.

Furthermore, the emphasis on local cultural identity shapes the norms and values in Southeast Asia (Thompson, 1993). Eastern states often view the



universalism of liberal democracy as Western cultural imperialism, blending democratic values with the preservation and promotion of cultural identity. Religious issues also challenge the penetration of Western values in Asia (Kersten & Abbott, 2012). The perception of liberalized Western values is often seen as a threat to democracy in Southeast Asia due to the significant role of religion. As a result, ASEAN has developed its interpretation and approach to democracy.

Jones's (2007) on non-liberal democracy in Southeast Asia reveals that regional leaders and stakeholders often disregard Western efforts to promote democracy through education. Countries like Singapore and Malaysia consider people's participation a potential risk to political stability and economic growth. Similarly, Indonesia, despite being labeled as a democratic country, prioritizes national security and sovereignty over respect for human rights (Moon & Chun, 2003). Consequently, liberal democracy is not perceived as the ideal democratic model for Southeast Asia. Ultimately, the ASEAN Way serves as a label for member states to engage in foreign relations based on their values and norms (Khoo, 2004). Therefore, the study aims to find out challenges the coalition, FORUM-ASIA, encountered in dealing with the non-intervention principle of ASEAN countries.

## RESEARCH METHOD

Price (2003) characterizes civil society as a third agency comprising organized and mobilized citizens on a large scale. He popularizes transnational civil society (TCS), which refers to independent advocacy groups engaging in voluntary collective action across borders to pursue broader public interests. Price distinguishes TCS from other transnational actors, emphasizing their role in shaping the international agenda through the diffusion of discourses, persuasion of stakeholders, institutional reforms, and policy influence. TCS actors strive to transform behaviors, identities, and their operational environment. Four key TCS activities include constructing discourses and setting agendas on international issues, developing solution-oriented discourses, building networks and coalitions, and using persuasion and pressure to promote norm compliance.

However, transitioning from pragmatic socio-political organizations to decision-making within the broader international system necessitates collective support and shared values between global civil society and its ad hoc networks. Castells (2008) highlight organizational, technical, and political coordination challenges that transnational advocacy networks encounter. Organizational constraints arise due to disparate structures and operational principles among networks developed within territorial boundaries. Technical issues emerge from communication inefficiencies.

## RESULT AND DISCUSSION

### **Advocacy by FORUM-ASIA after the Military Coup in Myanmar**

In February 2021, the Myanmar military junta seized power from President Win Myint, citing alleged fraud and manipulation in the November 2020 Presidential Election. Aung San Suu Kyi, the de facto leader, and a renowned human rights advocate, was accused of violating COVID-19 restrictions. This

takeover resulted in the detention of civilian political figures and plans for a re-run of the election.

The coup faced resistance, leading to widespread protests and the military's suppression of information channels. The intensified demonstrations on February 7 became one of Myanmar's most significant protest movements since 2007, met with excessive force, casualties, injuries, and mass arrests. The military further targeted figures involved in the pro-democracy protests and shut down the internet nationwide on February 15, prompting international concern over democracy and human rights violations.

Responding to the security situation, FORUM-ASIA and 77 non-profit organizations and public communities released an open letter in mid-February 2021, urging the UN Human Rights Council to protect demonstrators' safety. The letter emphasized that internet restrictions and violent responses constituted crimes against humanity by military officials with a history of severe international crimes. The coalition called for a UN delegation to monitor the situation and report to relevant bodies, as well as comprehensive responses to address democratic regression and human rights violations. They also emphasized the need for accountability regarding the Myanmar military's past and present human rights violations.

Additionally, FORUM-ASIA initiated social media discussions using the hashtag #WhatsHappeningInMyanmar to gather international responses and identify joint actions. The organization collaborates with the Assistance Association for Political Prisoners (AAPP) to disseminate daily briefs on casualties and arrests by the Myanmar military. Furthermore, FORUM-ASIA monitors responses from ASEAN and the UN through a dedicated webpage and engages various stakeholders through press releases and discussions involving media, academics, human rights activists, and democracy advocates.

In this context, FORUM-ASIA exemplifies one of the roles of transnational civil society (TCS) described by Price (2003): advocating through collective action across borders to advance their interests in promoting discourse on democracy and human rights. Established to strengthen the human rights movement and foster sustainable development rooted in democracy and solidarity in Asia and neighboring regions, FORUM-ASIA holds non-governmental organization status and consultative standing with both the UN and the ASEAN Intergovernmental Commission on Human Rights (AIHCR).

Its vision is to cultivate a peaceful and equitable community in Asia, focusing on safeguarding the human rights of marginalized, disadvantaged, and discriminated groups. The organization upholds core values such as transparency and accountability, inclusivity, relevance and impact, empowerment, and empathy. Comprising representatives from non-profit organizations and civil society communities in Southeast Asia and other Asian countries, FORUM-ASIA's composition explains its concerns regarding democratic developments and human rights violations in Myanmar. Nevertheless, its advocacy endeavors encourage the UN and ASEAN to play a more significant role as international institutions facilitating inter-state dialogue.

Moreover, the role of FORUM-ASIA within the TCS framework can be gauged through the objectives of its international agenda, which encompass the dissemination of discourse, persuasion of stakeholders to alter their discursive views and institutional practices, and influencing policy changes. This can be shown in the joint statement issued by FORUM-ASIA and 137 international civil society organizations and communities on February 25, 2021, urging the UN Security Council and UN member states to impose an arms embargo on Myanmar. The coalition emphasized that,

*“Any sale or transfer of military-related equipment to Myanmar could provide the means to further repress the people of Myanmar in violation of international humanitarian and human rights law. Until the Council acts, individual UN member states should adopt measures at the national and regional levels to block sales and other transfers of weapons and materiel to Myanmar, with the goal of extending an arms embargo to as close to a global scale as possible. (FORUM-ASIA, 2021).”*

Likewise, when FORUM-ASIA, together with 258 other international organizations and communities, released a statement urging INTERPOL to prohibit the presence of the military junta at the UN General Assembly in November 2021, they also reaffirmed their stance of rejecting the recognition of the military junta as Myanmar's official government.

Therefore, FORUM-ASIA's advocacy, within Price's conceptualization of TCS, seeks to instigate behavioral and identity changes and aims to transform the operational environment. Furthermore, their efforts to influence policy changes involve collective support based on shared norms and values among the global civil society and its network. According to Castells, FORUM-ASIA effectively tackles the challenges transnational advocacy networks face when confronted with territorial limitations that may lack uniform structures and operational principles for synergy with other networks.

### **Access to ASEAN's stakeholders**

FORUM-ASIA emphasizes the crucial roles played by the UN Human Rights Council and ASEAN in facilitating conflict resolution in Myanmar. The coalition of civil society organizations urges the UN Human Rights Council to use all available means to ensure Myanmar's military leaders are held accountable for acts of genocide and humanitarian atrocities. The UN Human Rights Council, an intergovernmental body responsible for promoting and safeguarding human rights globally, comprises 47 member states elected by the UN General Assembly, including Southeast Asian nations like Indonesia and Malaysia, until 2024.

However, the Council has faced long-standing criticisms regarding the effectiveness of its procedures and the implementation of recommendations. Katherine Short's article "From Commission to Council" (2008) highlights significant credibility deficits in the UN Human Rights Council's handling of human rights issues, attributed to factors like the lack of effective mechanisms, politicization, and slow responses to human rights concerns.



Efforts to promote dialogue for conflict resolution in Myanmar have also encountered challenges within ASEAN. The Five-Point Consensus for Myanmar, agreed upon by ASEAN member states' leaders in April 2021, still needs to be implemented over a year after the coup. The delivery of humanitarian assistance to isolated populations, a matter of international concern, needs to be more effective. The appointment of Brunei Darussalam's Foreign Minister Erywan Yusof as ASEAN Special Envoy, a crucial point in the Five-Point Consensus, was delayed for over 100 days due to extensive debates among democratic and military factions within the region. Countries like Indonesia, Malaysia, and Singapore represented the democratic faction, while Thailand, Cambodia, and Vietnam were aligned with the military faction (Allard, 2021).

ASEAN's decision on October 15, 2021, not to invite Myanmar's representatives to high-level meetings until the military fulfills its commitments under the Five-Point Consensus was seen by some as a mere attempt to preserve ASEAN's image without sending a solid message to Myanmar military junta (Hutt, 2021). The divergent perspectives and historical complexities within ASEAN regarding the Myanmar conflict have contributed to the junta's confidence, with the belief that the international community would eventually recognize their government, potentially leading to a contentious rerun of the election involving pressure and manipulation (Nguyen, 2022). In this context, ASEAN's hedging utility appears more apparent than its multilateral utility in facilitating conflict resolution.

Advocacy efforts also faced obstacles when ASEAN appointed its new chair from Cambodia. The visit of Cambodian Prime Minister Hun Sen to General Min Aung Hlaing received severe criticism, seen as an attempt by ASEAN to acknowledge the junta's government. Hun Sen justified the meeting as an information-gathering effort on the situation in Myanmar and promised to hold meetings with anti-military figures (Dara, 2021). In response, FORUM-ASIA issued another joint statement urging the ASEAN Chair to act by the agreements outlined in the Five-Point Consensus.

However, these demands yielded little reaction. According to Bexell, Tallberg, & Uhlin, FORUM-ASIA's advocacy efforts face challenges as countries, particularly those in the Global South, resist external interference in their human rights affairs. They perceive accepting assistance from international bodies during a "state of emergency" as a breach of their jurisdiction that could lead to overthrowing their governments or authorities.

Consequently, such intervention efforts are seen as an affront to their sovereignty. As a result, FORUM-ASIA can only monitor alleged human rights violations in countries that reject external intervention, lacking the ability to advocate for problem resolution. Despite sharing norms and values that foster a common understanding of right and wrong, solidarity is only supported when national policies support these principles.

## CONCLUSION

The interplay between democracy, human rights, and the interests and sovereignty of states creates challenges and limitations for transnational actors

involved in empowerment and emancipation efforts. Nevertheless, there is still an opportunity for transnational actors to establish networks that allow them to promote and advocate for democratic norms, values, and human rights, especially in countries that oppose international intervention. The author also acknowledges that transnational actors' active participation and accountability are crucial for advancing democracy and human rights. Hence, the role of inclusive and diverse civil society groups, encompassing actors from various backgrounds, becomes vital in this context while maintaining a well-balanced mechanism for evaluating internal and external accountability.

However, transnational actors face constraints in their ability to shape or modify policies due to the dominance of more influential forces, such as the state and the market. The state's overwhelming power and authority undermine transnational actors' influence in advocating for marginalized groups' interests. Consequently, transnational actors must employ persuasive methods to engage with policy-making structures, participating in the planning process, providing feedback, and acting as vigilant overseers.

Transnational actors need access to policymakers while upholding accountability and remaining consistent with the values and norms they uphold. As a result, when transnational actors become part of the policy-making framework, they collaborate with other stakeholders to drive solutions that address the challenges faced by marginalized groups. Ultimately, advocacy serves as a means to bridge the gap between the interests of marginalized groups and those stakeholders who possess the power to enact policy changes.

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